

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

TF-0014/MK
April 18, 2024
10:00 AM

IN RE: X

Case No. 23-11749

MARCIA GROSTEIN,
GROSTEIN COLLECTIVE

Hon. PHILIP BENTLEY

NOTICE OF MOTION

Debtor.

X

PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Philip Bentley, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, VIA ZOOM on the 18th day of April, 2024 at 10:00 AM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. §1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

PLEASE TAKE FURTHER NOTICE, that any hearing on the within application will be held by telephone or Zoom video conference only. No in-person hearing will be held in the Courthouse. Participants are required to register their appearance at <https://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl> 48 hours before the scheduled hearing.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Thomas C. Frost, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: White Plains, New York
March 28, 2024

/s/ Thomas C. Frost
THOMAS C. FROST, CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, STE 102
WHITE PLAINS, NY 10603
(914)328-6333

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Hon. PHILIP BENTLEY

APPLICATION

Debtor.

X

TO THE HONORABLE PHILIP BENTLEY, U.S. BANKRUPTCY JUDGE:

THOMAS C. FROST, ESQ., Standing Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on October 31, 2023 and, thereafter, THOMAS C. FROST was duly appointed and qualified as Trustee.
2. As of the date of this Motion, the Debtor has completed 4 Plan Months, and the monthly Plan payment is currently \$1,500.00.
3. The Debtor's proposed Chapter 13 plan is not feasible as it is not adequately funded to provide for full repayment to all secured claims as required by 11 U.S.C. §1325(a)(5) and the full repayment of 100% of the total amount of all general unsecured claims as it proposes to do in Part 6.1.
4. The Debtor's proposed Chapter 13 plan must be amended to address all secured and priority creditors consistent with the amounts listed in the filed claims.
5. The Debtor's proposed Chapter 13 Plan fails to comply with the best interest of creditors test as set forth in 11 U.S.C. §1325(a)(4) in that the unsecured creditors will receive less than the amount that would be paid if the estate of the Debtor were liquidated under Chapter 7, and as such it cannot be confirmed.
6. The Debtor has failed to:
 - a. submit timely Chapter 13 plan payments to the Trustee as required by 11 U.S.C. §1325(a)(6) and is in arrears, to date, in the amount of \$3,000.00;
 - b. provide the Trustee with copies of filed 2019 **state** tax returns;
 - c. provide the Trustee with documentation of the current value of all real property in which the Debtor has an ownership interest; and
 - d. provide the Trustee with documentation of the current value of all Artwork which the Debtor has an ownership interest as set forth in Schedule A with a listed valuation of \$1,000,000.00.

7. The Trustee also respectfully requests copies of the 2023 federal and state tax returns and any refunds, if any, once filed with the taxing authorities as required by 11 U.S.C. § 521(f)(1).
8. The deficiencies as stated above impede the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).
9. The foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: White Plains, New York
March 28, 2024

/s/ Thomas C. Frost
Thomas C. Frost, Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Case No: 23-11749

IN RE:

MARCIA GROSTEIN,
GROSTEIN COLLECTIVE

**CERTIFICATE OF SERVICE
BY MAIL**

Debtor.

This is to certify that I, Nancy Alexander, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

MARCIA GROSTEIN
25 EAST 69TH STREET, #5B
NEW YORK, NY 10021

LINDA M. TIRELLI, ESQ.
TIRELLI LAW GROUP, LLC
50 MAIN STREET, SUITE 1265
WHITE PLAINS, NY 10606

CARA M. GOLDSTEIN, ESQ.
TERENZI & CONFUSIONE, P.C.
401 FRANKIN AVENUE, SUITE 304
GARDEN CITY, NY 11788

This March 28, 2024

/s/Nancy Alexander
Nancy Alexander, Paralegal
Office of the Standing Chapter 13 Trustee
Thomas C. Frost, Esq.
399 Knollwood Road, Suite 102
White Plains, New York 10603
(914) 328-6333

CASE NO: 23-11749
Hon. PHILIP BENTLEY

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

MARCIA GROSTEIN,
GROSTEIN COLLECTIVE

Debtor.

**NOTICE OF MOTION, APPLICATION
and
CERTIFICATE OF SERVICE**

**THOMAS C. FROST
STANDING CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, SUITE 102
WHITE PLAINS, NEW YORK 10603
(914) 328-6333**
